



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
PO Box 269
TRENTON NJ 08695-0269

JAMES E. MCGREEVEY
Governor

JOHN E. MCCORMAC, CPA
State Treasurer

NOTICE TO DISTRIBUTORS, WHOLESALEERS AND RETAILERS OF TOBACCO PRODUCTS

EFFECTIVE MARCH 1, 2002

N.J.S.A. 54:40B-1, et seq., has been amended and signed into law as Chapter 448, P.L. 2001 on January 11, 2002. Chapter 448 converts the Tobacco Products Sales and Use Tax from one imposed on the price that a distributor receives from the sale of tobacco products to a vendor or consumer to one imposed upon the (lower) price that the distributor pays to buy the products from the manufacturer. The rate of the Tobacco Products Wholesale Sales and Use Tax and the base for calculating the tax has changed. The rate is reduced to 30% and is imposed on the invoice price the distributor pays to buy the products from the manufacturer. Chapter 448 provides that the act takes effect March 1, 2002 and applies to tobacco products sold or otherwise disposed of on and after that date, except for those tobacco products for which the tax was paid prior to the effective date.

“Tobacco Product” means any product containing any tobacco for personal consumption including but not limited to, cigars, little cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco and their substitutes and snuff. Cigarettes are exempt from the Tobacco Products Sales and Use Tax.

Use Tax

Distributors and wholesalers who also sell tobacco products at retail or otherwise use the tobacco products must pay a compensating use tax of 30% measured by the sales price of a similar tobacco product to a distributor. If a distributor or wholesaler has not paid the wholesale sales tax, then the compensating use tax shall be payable by the retail dealer or consumer directly to the Division of Taxation within 20 days of the date the tax was required to be paid. The retail dealer or consumer shall be given an invoice, receipt or other statement stating that the tax has been paid or will be paid by the distributor or wholesaler.

Collection of Tax

Distributors and wholesalers are required to file a monthly return on the invoice price they pay on their purchases from the manufacturers.

Retailers and consumers must file a return as a use tax if the distributor or wholesaler does not give them a statement, invoice, or receipt stating the Tobacco Products Tax has been paid or will be paid by the distributor or wholesaler.

Important Note:

The Tobacco Products Wholesale Sales and Use Tax is a trust tax meaning that the 30% tax paid by the distributor or wholesaler on purchases of tobacco products from manufacturers is held in trust for and on account of the state.

Resale Certificate (Form TPT-3)

The Tobacco Products Wholesale Sales and Use Tax Resale Certificate (Form TPT-3) may be used by registered distributors or wholesalers to purchase tobacco products intended for resale. When purchasing tobacco products, a distributor or wholesaler issues Form TPT-3 to the seller. The completed certificate documents the fact that the distributor or wholesaler is not subject to Tobacco Products Wholesale Sales and Use Tax on the purchase. Retail dealers may not use Form TPT-3 to purchase tobacco products without paying the Tobacco Products Wholesale Sales and Use Tax.

Registering to Collect the Tax

Every distributor and wholesaler making sales of tobacco products to retail dealers or consumers must register with the Division of Revenue. Distributors and wholesalers beginning business or opening new places of business are required to file an Application for Registration (Form NJ-REG) at least 15 days before beginning business. The Application for Registration (Form NJ-REG) can be found on the Division of Revenue's web site: www.state.nj.us/treasury/revenue.

Once the application is processed by the Division, the distributor or wholesaler will receive a Certificate of Authority to collect tax. This certificate must be prominently displayed in the distributor's or wholesaler's place of business. Duplicate certificates will be provided for additional places of business.

Remitting the Tax

Distributors and wholesalers are required to file a Tobacco Products Wholesale Sales and Use Tax Return (Form TP-20) and remit the tax on or before the 20th day of the month following the month for which the return is being filed. If any due date falls on a Saturday, Sunday or legal holiday, the return is due on the next business day.

Tobacco Products Wholesale Sales and Use Tax Returns postmarked on or before their due date are considered to be filed on time. Returns postmarked after their due date are considered to be late and are recorded as being filed on the date they were actually received by the Division, not the postmark date. The tax must be paid whether or not the tax has actually been collected from the customer by the time the return is due. Full penalty and interest as provided by the State Tax Uniform Procedure Law, assessed from the due date of the return, will be imposed on a return filed and/or payment made after the due date.

An extension of time to pay the tax due will not be granted under any circumstances.

Recordkeeping

Distributors and wholesalers are required to keep records of every charge and of all amounts paid, charged or due and of the tax payable on these amounts. These records must include a true copy of each invoice, receipt, statement memorandum showing the tax separately for all purchases of tobacco products from manufacturers. These records must be available for inspection by the Division of Taxation for four years from the date of the transaction.